U.S. Department of Labor

Office of Administrative Law Judges
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Issue date: 04Oct2001

Case No.: **2000-LHC-1708**

OWCP No.: **05-76105**

In the Matter of:

MICHAEL J. UZZLE,
Claimant,

v.

NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY,
Employer/Self-Insured,

and

DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS,
Party-In-Interest.

Representation: Robert J. Macbeth, Esq.
For the Claimant

Benjamin Mason, Esq.
For the Employer

Before: RICHARD K. MALAMPHY
Administrative Law Judge

DECISION AND ORDER GRANTING BENEFITS

This proceeding arises from a claim filed under the provisions of the Longshore and Harbor Workers' Compensation Act ("the Act"), as amended, 33 U.S.C. § 901 et seq.

A formal hearing was begun on December 7, 2000 and resumed on December 12, 2000 in Newport News, Virginia. The parties presented evidence and their arguments at the hearing held by the undersigned, and as provided by the Act and the applicable regulations. The findings and conclusions that

follow are based upon a complete review of the entire record in light of the arguments of the parties, applicable statutory provisions, regulations and pertinent precedent.

Stipulation of Facts

Employer, Newport News Shipbuilding, and Claimant, Michael J. Uzzle, stipulated to the following facts:

1. That Employer and Claimant were subject to the jurisdiction of the Act;

2. That at all times relevant to these proceedings an employer and employee relationship existed between Claimant and Employer;

3. That Claimant sustained an injury on May 3, 1990 to his right leg;

4. That Claimant received medical treatment for the May 3, 1990 injury to his right leg;

5. That his pre-injury average weekly wage was $448.87,which yields a compensation rate of $299.20;

6. That Employer has paid compensation voluntarily for temporary total disability at the rate of $299.20 per week for a period of time since or near the date of the injury until the date of the December 7, 2000 hearing;

7. That a timely claim was filed by Claimant;

8. That a timely first report of injury and a timely notice of controversion have been filed by Employer.

The undersigned accepts the stipulations that are stated above.

Issue

Whether Claimant is entitled to permanent total disability benefits under the Act.

Findings of Fact[1]

At the hearing, Claimant wore two leg braces; a belt providing support to his midsection; prescription glasses; a scarf around his neck; and a two-inch built-up shoe on his right foot. (Tr. at 14-16, 25.) He also used a wheelchair. (Tr. at 23.) Claimant spoke in a whispery voice during the course of the hearing.

Claimant worked as an installer at Newport News Shipbuilding for twelve years. (Tr. at 19.) He installed hangers for pipes on board submarines. (Tr. at 19.) On May 3, 1990, he injured himself when a piece of metal slipped out of his partner's hand during the installation process and hit Claimant's right leg a couple of inches above his knee. (Tr. at 19-20.)

Claimant sought treatment at Employer's clinic. (Tr. at 20.) He testified that Employer subsequently sent him to Dr. Thomas Stiles for treatment. (Tr. at 20-21.) Dr. Stiles determined that Claimant reached maximum medical improvement on May 28, 1991. (Tr. at 8-9.) At that point, Dr. Stiles assigned a five percent disability rating to Claimant. (Tr. at 9.) Employer voluntarily paid temporary total disability benefits after Claimant's accident. (Tr. at 5.)

Claimant's work injury resulted in a diagnosis of reflex sympathetic dystrophy or chronic pain syndrome (Tr. at 22; Cx. 7.) Employer has no medical evidence to contradict this diagnosis. (Tr. at 10.) Dr. Sydney Schnoll at the Medical College of Virginia (hereinafter "MCV") has treated Claimant for complex regional pain syndrome since 1995. (Tr. at 10; Ex. 1, p. 4; Cx. 1, p. 7, 32.) Complex regional pain syndrome is a "type of neuropathic pain. Neuropathic pain is pain that occurs secondary to a nerve injury....it is where the nerve becomes very sensitive. It can be distributed to a very localized area or a broader area of the body, but the nerve is very sensitive to event the lightest touch." (Cx. 1, p. 7-8.)

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[1]The following abbreviations will be used as citations to the record:

Cx.- Claimant's exhibits;

Ex.- Employer's exhibits;

Tr.- Transcript of hearing before Administrative Law Judge Richard K. Malamphy on December 7, 2000 and December 12, 2000.

According to Dr. Schnoll, Claimant's pain has spread from his right leg to his torso, back, left leg, and hands. (Cx. 1, p. 7-8.)

Dr. Schnoll stated that the medications he prescribes for Claimant provide Claimant with limited relief. (Cx. 1, p. 9.) He also stated that Claimant is "very limited in terms of what he can do." (Cx. 1, p. 9.) He testified that he "would prefer that [Claimant] be in an assisted living facility where he could have more direct observation and people could follow him more closely." (Cx. 1, p. 14.) Although Dr. Schnoll does not handle disability determinations, he opined that Claimant was 100 percent disabled. (Cx. 1, p. 16.)

Claimant stated that he has used a wheelchair for approximately four years and crutches for approximately ten years. (Tr. at 23-24.) He testified that he never goes anywhere without using his crutches or wheelchair. (Tr. at 26-27.) He uses Canadian crutches to navigate the steps into and out of his house and when he walks short distances for exercise. (Tr. at 23.) He uses the motorized wheelchair to travel long distances and to go to MCV. (Tr. at 173.) He stated that the wheelchair is so heavy now that he cannot get it down the steps. (Tr. at 173.)

After his injury, Claimant developed a sensitivity to light. (Tr. at 24.) He stated that the light burns his eyes, so he has to wear dark glasses most of the time. (Tr. at 24.) A doctor at MCV prescribed the glasses for his use. (Tr. at 24.) Claimant testified that prior to his injury he did not have any problems with his eyes. (Tr. at 24.)

Claimant testified that he also developed problems with swallowing, speech loss, and weakened hearing in his right ear as a result of his work injury. (Tr. at 24.) The problem with his voice has existed for about four years. (Tr. at 17.) He stated, "When the air enters my mouth, it's slow speaking and my ear sometimes raises up when I talk. I have to pause sometimes. I've got to stop, get air. Stop, take a breath." (Tr. at 40.) His voice "comes and goes" and sometimes he cannot speak at all. (Tr. at 18, 39.) Dr. Reiter at MCV treated him for his speech problem. (Tr. at 18.) No one has prescribed hearing aids for him. (Tr. at 25; Cx. 8.) He

testified that he was told "to keep cotton in [his ears] to try to keep the air from getting into it."[2] (Tr. at 25.)

Gregory Blazey, Claimant's workers' compensation case manager at Newport News Shipbuilding, testified that he witnessed and interacted with Claimant at a Board of Supervisors meeting in May 2000. (Tr. at 72-73.) He stated that Claimant strolled to the door to the building without the use of his crutches. (Tr. at 75.) Blazey testified that Claimant was not wearing a built-up shoe that day and he could not see any braces. (Tr. at 78.) He heard Claimant speak at the meeting for ten minutes in a much stronger and louder voice than Claimant used at the hearing. (Tr. at 77.)

Sara Bradby, a case manager at the Shipyard, testified that she attended a meeting of the Concerned Citizens of the Isle of Wight in November 2000 where she heard Claimant speak. (Tr. at 91-92, 96.) She stated, "[t]here was no amplification in the room. We were all sitting around the table about that size and he was actually sitting one person from me. I could understand him." (Tr. at 93.) She testified that Claimant spoke at the level of normal conversation. (Tr. at 95.) She did not see Claimant move around at all during the meeting. (Tr. at 97.)

Claimant testified that a nurse comes to his house every three days and administers a shot of Toradol for chronic pain. (Tr. at 25.) He does not receive any other shots. (Tr. at 25.) Claimant testified that he is under the care of a psychiatrist "[b]ecause a lot of times [he] can't deal with the situation [he's] in and sometimes [he feels] like [he's] losing it and [he needs] someone to talk to and try to help [him] go through it emotionally and physically and mentally." (Tr. at 27.) His psychiatric treatment began when he started receiving treatment from MCV in 1993. (Tr. at 27.) Employer has paid for all of his medical treatments, including the treatments related to MCV. (Tr. at 27.)

Claimant's family owns a towing business, which his father and the members of his family operates.[3] (Tr. at 25-

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[2]At the hearing, he wore a scarf around his ears. (Tr. at 25.)

[3]Walter Uzzle, Claimant's father, stated that he and Claimant purchased a business license for US Towing. (Tr. at 63-64.) Walter Uzzle files taxes for the business. (Tr. at 65.)

26.) Claimant stated that his father's towing business predates Claimant's work injury. (Tr. at 31.) Claimant's father has continued to tow and haul since 1992 and he gets paid for his towing services. (Tr. at 56-57.) He does not have any employees and handles all the driving and towing himself. (Tr. at 57-58.) Claimant's father Uzzle testified that people learn of his services by word of mouth. (Tr. at 66.)

Claimant testified that, since his work injury, he no longer participates in any activities related to the towing business. (Tr. at 26.) However, Claimant's father stated that Claimant sometimes drives the automatic pickup for him while he handles the loading activities involved with hauling jobs. (Tr. at 60-61.) He testified that he pays his son " a little bit" of money. (Tr. at 61.) He stated, "You know, like they say, ain't no whole lot of pay involved. Just clean up. Ain't no whole lot of pay in it. No whole lot of pay in anything, to be frank with you." (Tr. at 61.)

Claimant testified that he has seven family members, five sisters and one brother, who help his father with the towing business. (Tr. at 31-32.) He stated, "It's a family thing. It's a family business. Everybody just chips in to help when he needs help." (Tr. at 32.) Claimant occasionally helps his father with the paperwork by recording his father's jobs in a notebook. (Tr. at 47.) According to Claimant, none of his family gets paid for the work that they do for the business. (Tr. at 32.) Claimant stated that his father has not paid him any wages for working in the towing business and he has not received any income from that business. (Tr. at 26, 162.) Claimant testified that he has not had income from any employment in the last ten years. (Tr. at 162-163.) Employer admitted that Claimant cannot return to his former employment at the Newport News Shipyard. (Tr. at 9.)

Claimant testified that the vehicles his father uses in the towing business are registered in Claimant's name. (Tr. at 29.) He stated that the tow trucks are registered in his name because he and his father purchased them jointly.[4] (Tr. at 30.) Claimant's phone number is located on the sides of one of the trucks. (Tr. at 41, 67-68.) Claimant testified,

[4]Claimant's father testified that the trucks used in the towing business are register in both his and his son's name. (Tr. at 62-63.)

"Sometimes if they call me, I will call my dad. Sometimes I can get to my dad...I tell people I know where my dad is. They call me." (Tr. at 41.)

Claimant drives a van and station wagon. (Tr. at 29.) He has used his station wagon to haul his garbage and other things. (Tr. at 49.) He testified: "I drop by the stores and ask can I carry the trash while I'm going–in the neighborhood, sometimes if I'm going to the trash site." (Tr. at 50.) He denied driving a truck used in the towing business. (Tr. at 29.) He stated that he has not driven the tow trucks for at least two years. (Tr. at 42.) Claimant's father confirmed that his son does not drive the tow truck or flat bed truck. (Tr. at 62.) However, he stated that his son drives a pickup used in the towing operation whenever he feels like it.[5] (Tr. at 69.)

Employer hired Joann Jewell, an insurance investigator for Hightower Investigations, to contact Claimant by phone to find out "what was involved with US Towing Company." (Tr. at 99-100.) She contacted Claimant the day before the hearing. (Tr. at 101; Ex. 4.) She testified that Claimant "told [her] that his father did run the company. He did the picking up of the scrap metal and the towing. Later on in the conversation, he did tell [her] he took the paperwork that his father gave him and put in the books." (Tr. at 102.) At one point, Jewell asked, "Ok, and you just work for him? Or you don't work for him?" (Ex. 4, p. 4.) Claimant responded, "Nah, I don't I don't like I said I just handle the whatever paper work he gives me just to know puts in his book and stuff like that." (Ex. 4, p. 4.) She did not ask if Claimant was an employee of US Towing or if he received wages from US Towing. (Tr. at 106.)

Although Jewell testified that Claimant spoke quietly when he first answered the phone, she stated that she had no trouble hearing him as the conversation progressed. (Tr. at 102.) She stated that he spoke at the level of normal conversation. (Tr. at 103.) Claimant testified that he does not have any form of amplification on his telephone.

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[5]Both his and his son's phone numbers are listed on the sides of that truck. Claimant's father stated that if someone calls Claimant about towing services, Claimant relays the message to him and he makes the decision about whether to take the job. (Tr. at 68.)

Occasionally, people on the phone will ask him to speak louder so that they can understand him. (Tr. at 40.)

Ted Koehl, another investigator, also testified. (Tr. at 119.) He handles surveillance on insurance claims. (Tr. at 120.) Employer hired Koehl to conduct surveillance on Claimant. (Tr. at 121.) He conducted his surveillance between November 17, 1999 and December 2, 1999. (Tr. at 121-122.) Koehl testified that he observed Claimant:

> on several days operating different types of motor vehicles. One was a Ford station wagon, one was a tow truck, and one was also a van. He utilized crutches on all the days. Occasionally, a leg brace and what appeared to be maybe a back brace at times too. He went to gas stations to fill up gas in the vehicles. He went to church. He went to fast food restaurants, private residences.
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> [He] observed [Claimant] stopping at large open dumpsters, reaching into the dumpsters and pulling out different types of items....and he would take the items and put them in the back of whatever vehicle he was driving that day. [He] observed him climbing in and out of a flatbed area of the tow truck, bending over on numerous occasions at the waist utilizing both hands to move objects around.

(Tr. at 122-123; Ex. 2.) On September 7, 2000, Koehl and Reginald Wilburn, another investigator with the company, observed Claimant working underneath a vehicle in the driveway.[6] (Tr. at 131-133, 151; Ex. 3, p. 5; Ex. 5.) Koehl stated that Claimant's crutches were laying on the ground beside him. (Tr. at 151.) Claimant testified that he held a wrench underneath the truck while another person replaced a part.[7] (Tr. at 174.)

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[6]Dr. Schnoll testified that it would not surprise him if Claimant tried to work underneath a car. (Cx. 1, p. 19-20.) He stated, "I think the question is not has he attempted to do it, but how much he can do and for how long and how functional he can be at it....Often trying these things can result in significant increases in their pain...." (Cx. 1, p. 20.)

[7]At his deposition, Claimant stated that he could not actively work on vehicles himself. (Tr. at 166; Ex. 1, p. 18-20.) He stated, "I will sit down where [his father] at, where he is and I just hand him

Wilburn spoke with an elderly man standing near Claimant who stated that Claimant and the unidentified person were replacing the power steering pump in the vehicle. (Ex. 3, p. 28; Tr. at 151-152.) According to Wilburn's and Koehl's typed report, the elderly man "indicated he was in the business of recycling old and used scrap metal and appliances and that they only worked on their own vehicles and others as a hobby." (Ex. 3, p. 6.) Wilburn did not engage Claimant to do any work for him on September 7, 2000. (Tr. at 156.) He also did not offer or give any money to anyone to do any work for him on that day. (Tr. at 156.)

During the entire course of his surveillance, Koehl never observed Claimant "motivate in a wheelchair." (Tr. at 133.) Claimant always walked with crutches. (Tr. at 133-134.) Koehl could not determine from his surveillance whether Claimant wore an elevated shoe.[8] (Tr. at 142.) He observed Claimant walking up and down steps and inclined, grassy areas. (Tr. at 143-144; Ex. 2, p. 8.) Claimant testified that he never walks up and down steps or inclined areas without using his crutches. (Tr. at 163.)

Koehl never observed any money pass into Claimant's hands during his surveillance of Claimant. (Tr. at 138.) When Koehl contacted Claimant by phone to inquire whether US Towing would pick up old washing machines, Claimant indicated that "they would pick it up and there was not a charge to pick it up." (Tr. at 142-143.)

Discussion

To establish a prima facie case of total disability, Claimant must show that he cannot return to his regular or usual employment due to his work-related injury. Clophus v. Amoco Prod. Co., 21 BRBS 261, 265 (1988). Claimant need not establish that he cannot return to any employment, only that he cannot return to his usual employment. Elliot v. C & P Tel. Co., 16 BRBS 89, 92 (1984). If Claimant meets this burden, he is presumed to be totally disabled. Walker v. Sun Shipbuilding & Dry Dock Co. (Walker II), 19 BRBS 171, 172 (1986).

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to what is on the table or bench. I hand him stuff like that." (Ex. 1, p. 14.)

[8]Claimant testified that all of his footwear include a lift. (Tr. at 163.)

This standard remains the same regardless of whether the claim is for temporary total or permanent total disability. The date on which Claimant's condition becomes permanent is primarily a medical determination. Thus, the medical evidence must establish the date on which the employee has received the maximum benefit of medical treatment such that his condition will not improve. Trask v. Lockheed Shipbuilding & Constr. Co., 17 BRBS 56, 60 (1985).

In this case, Claimant sustained a work-related injury on May, 3, 1990. (See Stipulations.) Claimant reached maximum medical improvement on May 28, 1991. (Tr. at 8-9.) As a result of his work-related injury, Claimant developed chronic pain syndrome. (Cx. 1, 7.) Employer has no medical evidence to contradict this diagnosis. (Tr. at 10.) Dr. Schnoll, Claimant's treating physician, opined that Claimant was 100 percent disabled and therefore unemployable. (Cx. 1, p. 16, 25.) Employer does not dispute the fact that Claimant is unable to return to his former employment because of his work-related injury. (Tr. at 9.) Therefore, Claimant established a prima facie case of permanent total disability.

Thus, the burden shifts to Employer to show suitable alternate employment. Clophus v. Amoco Prod. Co., 21 BRBS 261 (1988); Nguyen v. Ebbtide Fabricators, 19 BRBS 142 (1986). A failure to prove suitable alternate employment results in a finding of total disability. Manigault v. Stevens Shipping Co., 22 BRBS 332 (1989) (involving injury to a scheduled member); MacDonald v. Trailer Marine Transp. Corp., 18 BRBS 259 (1986), aff'd, No. 86-3444 (11th Cir. 1987) (unpublished). In this case, Employer argues that Claimant is not entitled to total disability because he is capable of working and is currently working in his father's towing and hauling business.

Employer argues that circumstantial evidence establishes that Claimant is currently working in his father's towing and hauling business and is therefore capable of working at least 15 to 20 hours per week for minimum wage. In order to establish that Claimant is actually employed in the family business, Employer cites several factors. First, Claimant is the registered owner for all of the vehicles used in the family business. Claimant's phone number is displayed on one of the vehicles used in the business. (Tr. at 40-41.) Claimant stated that he addresses phone inquiries about available services from potential customers. (Tr. at 68; Ex. 4.) He also connects callers and potential customers with his

father. (Tr. at 68.) Claimant drives one of the vehicles connected with the hauling business. (Tr. at 61; 122-23.) Claimant's father stated that Claimant participated in hauling jobs by driving the truck. (Tr. at 61.) Claimant has also helped perform maintenance work on the vehicles used in the family business. (Tr. at 133, 152, 168.) Employer argues that these facts establish that Claimant acts as a telephone dispatcher and driver, and helps with the maintenance of the vehicles used in the family business. Moreover, Claimant's father testified that he pays Claimant "a little bit" of money. (Tr. at 61.) Based on that information, Employer argues that Claimant is currently working in the family business. Employer offers the surveillance evidence to establish that Claimant is working at least four hours daily. (Ex. 2, 3.) Therefore, Employer argues that the court should find that Claimant is able to work at least 15 to 20 hours weekly for a wage commensurate with or even slightly above minimum wage.

Unfortunately, Employer fails to meet its burden of establishing that Claimant is capable of working or that he currently works in the family business. Dr. Schnoll, Claimant's treating physician, opined that Claimant is 100 percent disabled. (Cx. 1, p. 16.) While Dr. Schnoll would not be surprised if Claimant performed activities such as car maintenance, he stated: "I think the question is not has he attempted to do it, but how much he can do and for how long and how functional he can be at it....Often trying these things can result in significant increases in their pain...." (Cx. 1, p. 20.) Based on his observation of Claimant, Dr. Schnoll concluded that Claimant was not employable. (Cx. 1, p. 25.) Employer provided no medical or vocational evidence to contradict Dr. Schnoll's testimony.

Regardless of the uncontradicted medical evidence, Employer argues that Claimant's symptom magnification disguises the fact that he is capable of working. According to Employer, Claimant's testimony establishes that Claimant is physically capable of performing many activities, such as driving, record-keeping, and telephone dispatching, that are incorporated in paid employment. Based on its surveillance of Claimant's activities, Employer argues that Claimant can work in a minimum wage job for at least four hours per day. However, the court does not find any objective evidence in the record to support this assertion.

To establish suitable alternate employment, Employer must prove the availability of actual, not theoretical, employment opportunities by identifying specific jobs available to Claimant within the local community. New Orleans (Gulfwide) Stevedores v. Turner, 661 F.2d 1031, 1042-43, 14 BRBS 156, 164-65 (5th Cir. 1981), rev'g 5 BRBS 418 (1977); Armfield v. Shell Offshore, Inc., 30 BRBS 122, 123 (1996); Royce v. Elrich Constr. Co., 17 BRBS 157 (1985). It must establish that Claimant could perform these specific jobs considering Claimant's age, education, work experience, and physical restrictions. Edwards v. Director, OWCP, 99 F.2D 1374 (9th Cir. 1993), cert. denied, 114 S. Ct. 1539 (1994). For job opportunities to be realistic, Employer must establish their precise nature, terms, and availability. Thompson v. Lockheed Shipbuilding & Constr. Co., 21 BRBS 94, 97 (1988); Price v. Dravo Corp., 20 BRBS 94 (1987).

Assuming *arguendo* that Claimant engaged in symptom magnification to disguise his physical ability to work, Employer must still identify specific jobs within the local community that Claimant could perform. To meet this burden, Employer relies on the vague assertion that Claimant can work in a part-time, minimum wage capacity. Without medical or vocational testimony to support this proposition, the court cannot find that Claimant is capable of part-time employment. Even if Claimant could work part-time, Employer failed to establish that minimum wage jobs exist within the local community that Claimant could perform considering his age, education, work experience, and physical restrictions.

Employer also argues that Claimant is currently working and therefore not entitled to total disability. The court notes that a part-time job may be suitable alternate employment. Royce v. Elrich Constr. Co., 17 BRBS 157, 159 (1985). If the claimant is performing it satisfactorily and for pay, barring other signs of beneficence or extraordinary effort, it precludes an award of total disability. Harrison v. Todd Pac. Shipyards Corp., 21 BRBS 339 (1988); Shoemaker v. Sun Shipbuilding & Dry Dock Co., 12 BRBS 141 (1980).

In this case, the circumstantial evidence is insufficient for Employer to establish by a preponderance of the evidence that Claimant works for wages in the family business. To support its contention, Employer offered the statement by Claimant's father that he pays his son "a little bit" of

money. (Tr. at 61.) The court cannot conclude based on that statement alone, however, that Claimant has paid employment. It is unclear from the record whether Claimant's father gives Claimant money in exchange for Claimant's services in the family business or whether paternal love motivates his generosity.

Assuming *arguendo* that Claimant is working in the family business, the court finds that the work constitutes sheltered employment. The fact that Claimant works after his injury does not necessarily preclude a finding of total disability. Haughton Elevator Co. v. Lewis, 572 F.2d 447, 7 BRBS 838 (4th Cir. 1978), aff'g 5 BRBS 62 (1976); Walker v. Pacific Architects & Eng'rs, 1 BRBS 145, 148 (1974); Offshore Food Serv. v. Murillo, 1 BRBS 9, 14 (1974). The court can award total disability concurrent with continued employment where the claimant's post-injury employment is due solely to the beneficence of the employer. Walker v. Pacific Architects & Eng'rs, 1 BRBS 145, 147-48 (1974); see also Proffitt v. E.J. Bartells Co., 10 BRBS 435 (1979). In this case, it is clear that Claimant's father acts as a beneficent employer who caters to his son's needs and abilities. As Employer failed to meet its burden of establishing suitable alternate employment, the court finds that Claimant is entitled to permanent total disability.

ORDER

It is hereby ORDERED that:

1. Employer, Newport News Shipbuilding and Dry Dock, shall pay to Claimant, Michael Uzzle, permanent total disability benefits from May 28, 1991 and continuing based on the average weekly wage of $448.87, which yields a compensation rate of $299.20.

2. Employer shall receive credit for all compensation that has been paid.

3. Interest at the rate specified in 28 U.S.C. § 1961 in effect when this Decision and Order is filed with the District Director shall be paid on all accrued benefits computed from the date each payment was

originally due to be paid. See Grant v. Portland Stevedoring Co., 16 BRBS 267 (1984).

4. All computations are subject to verification by the District Director.

5. Pursuant to Section 7 of the Act, Employer shall provide such medical treatment as the nature of Claimant's work-related disability requires.

6. Claimant's attorney, within twenty (20) days of the receipt of this order, shall submit a fully supported fee application, a copy of which shall be sent to opposing counsel, who then shall have ten (10) days to respond with objections thereto.

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RICHARD K. MALAMPHY
Administrative Law Judge

RKM/kap
Newport News, Virginia